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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,
Plaintiff,

vs.

STEVEN CARROLL DEMOCKER,
Defendant.

No. P1300CR20081339

Div. 6

**SUPPLEMENTAL
MEMORANDUM IN SUPPORT
OF DEFENDANT'S MOTION
FOR REEXAMINATION OF
CONDITIONS OF RELEASE**

Defendant Steven C. DeMocker, by and through counsel, hereby submits this supplemental Memorandum detailing significant changes and concerns regarding his current conditions of confinement in the Yavapai County Jail, and the adverse effect they have on his ability to assist in his own defense in this capital case.

BACKGROUND

This Court has under advisement Mr. DeMocker's motion seeking modification of his release conditions. In that motion, Mr. DeMocker alleged, *inter alia*, that his conditions of confinement prevented him from being able to meaningfully assist in his

1 own defense in violation of his Sixth Amendment right to the effective assistance of
2 counsel and Due Process under the Arizona and U.S. Constitutions. The State
3 responded by alleging that it had made or would shortly make a number of special
4 arrangements to ameliorate those concerns. This Court heard the arguments of counsel
5 on those matters on September 22, 2009.

6 Since then, the following has occurred. Mr. DeMocker must continue to make
7 his legal calls (to counsel undersigned) on a phone inside his dorm in the jail with no
8 privacy from other inmates, but now cannot make any calls until after the morning
9 medication rounds which often last until late in the morning. As a result, the window for
10 making legal calls has effectively been reduced by two to three hours each day.

11 Next, and perhaps even more disturbingly, the jail has abruptly removed all of
12 Mr. DeMocker's files and documents from his cell, telling him that they now constitute
13 a "fire hazard". As a result, Mr. DeMocker now has no access whatsoever to any of the
14 written discovery in his case, to the work product of his defense team, or to his personal
15 files and correspondence with his family and children.

16 As the Court knows, Mr. DeMocker has been subjected to strip searches each
17 time he has a contact visit with his attorneys or other members of his defense team, an
18 invasion of his fundamental right to privacy and dignity that has caused him to shy
19 away from such visits even when they are truly necessary. The jail staff has advised
20 that this is the policy and that even though it presumes that Mr. DeMocker's lawyers
21 would not pass him contraband, it will not be changed.

22 The conditions of Mr. DeMocker's confinement have significantly worsened,
23 despite the claims of the State to the contrary. The logical response to this fact is, in
24 Mr. DeMocker's opinion, to permit him to be released pending trial with all of the
25 safeguards and restrictions he has proposed. There is no reason to believe that his
26

1 conditions will ever actually improve, based upon the recent negative developments
2 outlined above.

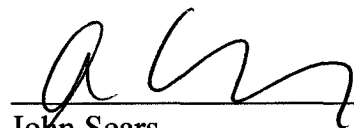
3
4 **CONCLUSION**

5 For these reasons, Mr. DeMocker respectfully requests that the Court order the
6 following:

- 7 1. Revoking the previously ordered \$2,500,000 cash or secured appearance
8 bond through a bail bondsman;
9 2. Setting bond at a reasonable, reduced amount, to be posted with cash or by a
10 secured appearance bond through a bail bondsman; and
11 3. Active GPS electronic monitoring by ankle bracelet shall commence upon
12 Mr. DeMocker's release, with all costs to be paid by Mr. DeMocker. In the
13 event Mr. DeMocker leaves the area defined by the Court without prior
14 permission of the Court, removes, attempts to remove or otherwise tampers
15 with the monitoring device, or fails to appear at any scheduled hearing, the
16 monitoring company shall promptly notify Judge Lindberg's chambers and/or
17 his designee(s) of that fact.

18 DATED this 6th day of October, 2009.

19 By:


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1 **ORIGINAL** of the foregoing mailed for filing
2 this 6th day of October, 2009, with:

3 Jeanne Hicks
4 Clerk of the Court
5 Yavapai County Superior Court
6 120 S. Cortez
7 Prescott, AZ 86303

8 **COPIES** of the foregoing mailed
9 this 6th day of October, 2009, to:

10 The Hon. Thomas B. Lindberg
11 Judge of the Superior Court
12 Division Six
13 120 S. Cortez
14 Prescott, AZ 86303

15 Joseph C. Butner, Esq.
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